

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of ) Case No.: **13-O-14309-YDR**  
)  
**LORRAINE ROSENFELD,** ) **DECISION AND ORDER OF**  
) **INVOLUNTARY INACTIVE**  
**Member No. 133620,** ) **ENROLLMENT**  
)  
A Member of the State Bar. )

In this matter, Lorraine Rosenfeld (“Respondent”) was charged with five counts of misconduct stemming from a single client matter. Respondent failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney’s default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney’s disbarment.<sup>2</sup> In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)

## FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on June 14, 1988, and has been a member since then.

### **Procedural Requirements Have Been Satisfied**

On June 16, 2014, the State Bar properly filed and served an NDC on Respondent by certified mail, return receipt requested, at her membership records address. The NDC notified Respondent that her failure to participate in the proceedings would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned “unclaimed” to the State Bar.

In addition, reasonable diligence was also used to notify Respondent of this proceeding. Prior to filing the NDC, the State Bar made several attempts to contact Respondent without success. These efforts included mailing letters to Respondent at her two most recent membership records addresses, sending an investigator to Respondent’s membership records address,<sup>3</sup> and performing Lexis/Nexis and internet searches for alternative telephone numbers or other contact information for Respondent.

Respondent failed to file a response to the NDC. On July 24, 2014, the State Bar filed and properly served a motion for entry of Respondent’s default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on August 21, 2014. The order entering the default was served on Respondent at her membership records address by certified mail, return receipt

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<sup>3</sup> On February 10, 2014, Respondent changed her membership records address to a P.O. box. The State Bar investigator went to Respondent’s prior membership records address, on S. El Camino Real in Oceanside, California. It is unclear from the State Bar’s declaration whether this visit occurred before or after Respondent changed her address in February 2014.

requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent also did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On December 15, 2014, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary matters pending; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on January 13, 2015.

Respondent has been disciplined on four prior occasions. Pursuant to a Supreme Court order filed on September 22, 1993, in case no. S033777, Respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for two years. In this matter, Respondent stipulated to failing to competently perform legal services, improperly withdrawing from representation, failing to respond to client inquires, and failing to maintain client funds in trust.

Pursuant to a Supreme Court order filed on June 29, 1994, in case no. S039381, Respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for two years. In this matter, Respondent stipulated to failing to competently perform legal services, failing to respond to client inquires, and failing to communicate significant developments.

Pursuant to a Supreme Court order filed on December 22, 1995, in case no. S049452, Respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for two years. In this matter, Respondent stipulated to failing to respond to client

inquires, appearing as an attorney without authority, failing to communicate a settlement offer, failing to return a client file, and failing to competently perform legal services.

Pursuant to a Supreme Court order filed on December 16, 1996, in case no. S056505, Respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for six months. In this matter, Respondent stipulated to failing to comply with a condition of disciplinary probation.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

#### **Case No. 13-O-14309 – The Pasaros Matter**

Count One – Respondent willfully violated Rules of Professional Conduct, rule 3-110(A) (failure to perform) by failing to pursue an unlawful detainer action and failing to file and pursue a civil suit to recover unpaid rent.

Count Two – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate), by failing to respond to numerous client status inquiries between April 27, 2012 and June 26, 2013.

Count Three – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal) by constructively terminating her employment without notice.

Count Four – Respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(2) (failure to refund unearned fees) by performing no legal services of value and failing to promptly refund her clients' unearned advanced fees.

Count Five – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate in a disciplinary investigation), by failing to provide a substantive response to the allegations in a disciplinary investigation after being contacted by the State Bar.

### **Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied, and Respondent’s disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of her default, as the State Bar properly served her with the NDC and made various efforts to contact Respondent, including mailing letters to Respondent at her two most recent membership records addresses, sending an investigator to Respondent’s membership records address, and performing Lexis/Nexis and internet searches for alternative telephone numbers or contact information;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATIONS**

### **Disbarment**

The court recommends that Respondent Lorraine Rosenfeld be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

**Restitution**

The court also recommends that Respondent be ordered to make restitution to George and Helen Pasaros in the amount of \$680 plus 10 percent interest per year from March 21, 2012. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

**California Rules of Court, Rule 9.20**

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

**Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Lorraine Rosenfeld, State Bar number 133620, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: April 10, 2015 April \_\_\_\_\_, 2015

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YVETTE D. ROLAND  
Judge of the State Bar Court